



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

May 24, 2019

MuckRock News
DEPT MR 73166
411A Highland Ave.
Somerville, MA 02144-2516

Dear Mr. Fisher:

This is our final response to your Freedom of Information Act (FOIA) request dated May 16, 2019, that we received on May 21, 2019.

You asked for:

1. Copies of all emails exchanged between employees of the Internal Revenue Service and a person named Jeff Novitsky. This includes emails, and email attachments, sent TO Novitsky and/or received FROM Novitsky, either directly or through a copied (CC or BCC) message. It also includes emails, and email attachments, sent AMONG agency employees that concern or refer to Novitsky. Please narrow your search for records dated between January 1, 2003 to December 31, 2005.

A request for any and/or all emails exchanged between employees (To, From, CC and BCC) of the Internal Revenue Service and a person named Jeff Novitsky, is extremely broad and would be unreasonably burdensome for the IRS to process.

Courts have agreed that requests of the type you have submitted seeking "any and all" records without reference to subject matter are not valid. See, for example, Dale v. IRS, 238 F. Supp. 2d 99, 104-05 (D.D.C. 2002), where the court held that request seeking "any and all documents . . . that refer or relate in any way" to requester failed to reasonably describe records sought and "amounted to an all-encompassing fishing expedition of files . . . at taxpayer expense."

You may consider revising this portion of your request, shortening the timeframe, provide search terms, it should more specifically identify the other parties to the email communications, and more specifically identify the nature of the subject matter of the email communications. A more detailed description would help us to determine the location of the records to be searched and whether the records sought are, for example, personal in nature or relate to agency policy, guidance, or training.

You also asked for:

2. Copies of all internal memoranda, policy manuals, directives, training materials, announcements, and/or similar records that contain the terms "Quest Diagnostics Lab" and/or "Comprehensive Drug Testing Lab." Please narrow your search for these records to the same time frame: January 1, 2003 to December 31, 2005.

As a preliminary matter, the scope of the subject matter of your request is so broadly based that it appears to extend to records, to the extent that any exist, that may contain the return information of third parties. Please be advised that such records, to the extent that they exist, would be confidential and may not be disclosed unless specifically authorized by law. Specifically, Internal Revenue Code (IRC) § 6103 prohibits the release of returns and return information unless disclosure is authorized by Title 26. The Service's FOIA regulations specify that, in order to be processed, all requests for records whose disclosure is limited by IRC § 6103 must establish the right of the person making the request to the disclosure of the records in question. See 26 C.F.R. § 601.702(c)(4)(i)(E). Specifically, when a person is requesting records pertaining to other persons or businesses, the requester shall furnish a properly executed power of attorney, a Privacy Act consent, or a tax information authorization, as appropriate. See 26 C.F.R. § 601.702(c)(5)(iii). Without such authorization, the request is not fully compliant with the IRS' published rules and cannot be processed. See 26 C.F.R. § 601.702(c)(4).

Because your request does not constitute a valid request under the FOIA, we are closing with no further action.

If you have any questions, please call Tax Law Specialist Lauri Takeguchi, ID # 1000682891, at 408-283-1465, or write to: Internal Revenue Service, Centralized Processing Unit, P.O. Box 621506, Stop 211, Atlanta, GA 30362-3006. Please refer to case number F19142-0029.

Sincerely,



Herbert Ottenbreit
Acting Disclosure Manager
Disclosure Office 14